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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,160	11/21/2001	Katsuyoshi Kubo	AB165	9769

7590 06/07/2004

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EXAMINER

WOODWARD, ANA LUCRECIA

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,160

Applicant(s)

KUBO ET AL

Examiner

Ana L. Woodward

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
 Period for Reply three

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/21/01; 3/31/04; 4/14/04
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) is/are objected to.
- 8) ☐ Claim(s) are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. .
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB-08)
 Paper No(s)/Mail Date 4/21/01; 4/14/04
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I in the reply filed on March 31, 2004 is acknowledged.
2. Claims 9-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 31, 2004.

Claim Rejections - 35 USC § 102/103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(A) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 7 and 8 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. 6,380,313 (Dillon et al).

Dillon et al disclose a resin composition prepared by formulating a thermoplastic polymer with a fluoropolymer. Preferably, the fluoropolymer comprises about 0.01 and 0.2 weight

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percent of the melt-processable composition (column 5, lines 10-16). In the examples, resin compositions comprising a polyolefin with 0.075 or 0.08 percent by weight of fluoropolymers containing tetrafluoroethylene units and other perfluoromonomers, which are seen to read on applicants' preferred fluorine-containing polymers species, are shown.

The disclosure of the reference meets the requirements of the above-rejected claims, both in terms of the types of materials added and their contents. The onus is shifted to applicants to establish that the presently claimed products are not the same as or obvious from that set forth by the reference.

Claim Rejections - 35 USC § 103

6. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,380,313 (Dillon et al) described hereinabove.

In essence, the disclosure of Dillon et al differs from these claims in not expressly exemplifying the use of polyamides or polyetheretherketones as the thermoplastic polymer blended with the fluoropolymer. In this regard, attention is directed to column 8, lines 13-22 of the reference, which lists polyamides and polyketones as useful host polymers. Accordingly, it would have been obvious to one having ordinary skill in the art to have used a polyamide or a polyetheretherketone, which is an obvious species of the generic polyketones, as the thermoplastic host polymer with the reasonable expectation of success, absent evidence of unusual or unexpected results.

Double Patenting

7. Claims 1-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of copending

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Application No. 10/380,830. Although the conflicting claims are not identical, they are not patentably distinct from each other because they contain overlapping subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (571) 272-1082. The examiner can normally be reached on Monday-Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ana L. Woodward
Examiner
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